

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CHARLES WINTERS

PLAINTIFF

V.

CIVIL ACTION NO. 1:06CV393

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

OPINION AND ORDER

The Court has before it Defendant State Farm Fire and Casualty Company's (State Farm) motion to dismiss or, in the alternative, for a more definite statement under F.R.Civ.P. 12(e).

I have reviewed the state court complaint, and I find that the complaint is sufficient to give fair notice of the claims the plaintiff is asserting.

Plaintiff Charles Winters (Winters) alleges that his residence was insured under a policy issued by State Farm at the time the property was extensively damaged during Hurricane Katrina. Winters alleges that State Farm wrongfully denied his claim following the storm. (Complaint Paragraphs 7, 8, 10, and 11) Winters alleges that State Farm's actions were negligent, indeed grossly negligent. (Complaint Paragraphs 12, 16, and 17) Winters alleges that State Farm's refusal to honor his claim constitutes a breach of the insurance contract. (Complaint Paragraphs 13, 14, and 15)

Winters has not charged State Farm with fraud, and thus there is no allegation of fraud to state with particularity.

State Farm will have a full and fair opportunity to explore the factual basis of all the allegations in Winter's complaint, including his reference to negligent misrepresentation, during the ordinary course of discovery.

Accordingly, it is

ORDERED

That Defendant State Farm Fire and Casualty Company's motion to dismiss or, in the alternative for a more definite statement [3] is hereby **DENIED**.

SO ORDERED this 15th day of May, 2006.

s/ L. T. Senter, Jr.

L. T. Senter, Jr.
Senior Judge